

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*The Montgomery County Board of County  
Commissioners et al. v. Cardinal Health, Inc.,  
et al.*, Case No. 1:18-op-46326-DAP (“Track  
Seven”)

MDL 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**PLAINTIFF’S MOTION FOR LEAVE TO FILE UNDER SEAL ITS MOTIONS TO  
EXCLUDE CERTAIN OPINIONS OF PATRICK J. MARSHALEK  
AND JOHN E. SCHNEIDER**

This is a motion under Local Rule 5.2 seeking leave to file under seal Plaintiff’s motions to exclude certain opinions disclosed by Defendants’ proffered expert witnesses Patrick J. Marshalek and John E. Schneider, together with their supporting exhibits. A proposed order is attached to this motion as Exhibit 1.

Local Rule 5.2 provides, “No document will be accepted for filing under seal unless a ... court order authorizes the filing of sealed documents.” Plaintiff’s motions refer throughout to Marshalek’s and Schneider’s expert reports, which Defendants have designated confidential in their entirety under the governing protective order. *See* ECF Nos. 441, 1357. Further, the attached excerpts of the witnesses’ deposition transcripts are still within the period of presumptive confidentiality. Accordingly, all of this information is subject to the Court’s Order Amending Procedures Regarding Redactions and Filing of Briefs Under Seal. *See* ECF No. 1813.

Plaintiff does not believe this information warrants sealing and withholding from the public. Nonetheless, Plaintiff seeks to comply with all applicable orders concerning designated confidential

information. Plaintiff respectfully requests to proceed in this manner so there is no inadvertent disclosure of such information.

Plaintiff therefore asks the Court to grant Plaintiff's motion and direct Defendants to indicate within three business days whether and which specific information contained in Plaintiff's motions or supporting exhibits should be redacted and remain under seal. *See* ECF No. 1813 at 5–7 (disfavoring blanket sealing and requiring specific redactions). At the end of that period, any information Defendants do not indicate should be redacted will be made available on the Court's public docket.

Dated: February 7, 2023

Respectfully submitted,

/s/Peter H. Weinberger

Peter H. Weinberger (0022076)  
SPANGENBERG SHIBLEY & LIBER  
1001 Lakeside Avenue East, Suite 1700  
Cleveland, OH 44114  
(216) 696-3232  
(216) 696-3924 (Fax)  
pweinberger@spanglaw.com  
*Plaintiffs' Liaison Counsel*

Linda Singer  
Elizabeth Smith  
MOTLEY RICE LLC  
401 9th Street NW  
Suite 630  
Washington, DC 20004  
(202) 386-9626  
lsinger@motleyrice.com  
esmith@motleyrice.com  
*Attorneys for Plaintiff Montgomery County*

Michael Elsner  
Lisa Saltzburg  
MOTLEY RICE LLC  
28 Bridgeside Blvd.  
Mount Pleasant, SC 29464  
(843) 216-9000  
melsner@motleyrice.com  
lsaltzburg@motleyrice.com  
*Attorneys for Plaintiff Montgomery County*

Mathias H. Heck, Jr.  
MONTGOMERY COUNTY  
PROSECUTING ATTORNEY  
301 West Third Street  
P.O. Box 972  
Dayton, Ohio 45422  
Telephone: (937) 225-5599  
Fax Number: (937) 225-4822  
E-mail: heckm@mcohio.org  
*Attorney for Plaintiff Montgomery County*

Ward C. Barrentine  
Chief Assistant Prosecuting Attorney -  
Civil Division  
MONTGOMERY COUNTY  
PROSECUTOR'S OFFICE  
301 West Third Street  
4th Floor, Suite 461  
Dayton, Ohio 45422  
Telephone: (937) 496-7797  
E-mail: BarrentinW@mcohio.org  
*Attorney for Plaintiff Montgomery County*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 7, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system and may be obtained by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/Peter H. Weinberger  
Peter H. Weinberger

2748438.3